

REMARKS

Upon entry of the present Amendment, claims 1-19 will be pending, and claims 1-19 will have been amended to correct informalities in the claim language and to more clearly define the claimed subject matter.

Initially, Applicant would like to thank the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f), as well as confirming receipt of the certified copy of the priority document.

Applicant also notes with appreciation the Examiner's consideration of the documents cited in the Information Disclosure Statements filed on June 16, 2004, September 13, 2004, and July 11, 2005 in the present application. Applicant thanks the Examiner for returning, with the afore-noted Office Action, initialed and signed copies of the PTO-1449 Forms that accompanied the June 16, 2004, September 13, 2004, and July 11, 2005 Information Disclosure Statements.

Applicant also notes with appreciation the Examiner's consideration and acceptance of the drawings filed March 16, 2004.

In the above noted Official Action mailed May 16, 2006, the Examiner suggested that the "applicant should disclose the document pertaining to . . . [figures 6A, 6B and 7] if known." Applicant is enclosing a copy of Japanese Laid-Open Patent Publication No. 06-150963, which is a patent family member of U.S. Patent No. 5,322,745 to Yanagihara et al., together with an English language Abstract of the same in a concurrently filed Information Disclosure Statement. The 06-150963 publication is a relevant document with respect to Figures 6A and 6B.

The Examiner has rejected claims 1-19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In rejecting claims 1-19 under Section 112, second paragraph, the Examiner refers to claim 1 (lines 10-12), claim 2 (lines 8-9), claim 3 (lines 10-13), and claim 6 (line 3), citing the language "the fan is eccentric with respect to a center line . . . the impeller," and the lengths "F" and "L." Applicant respectfully traverses this rejection for at least the following reasons.

Initially, Applicant notes that although the Examiner has rejected independent claim 2 (and its dependent claims 12, 14, 16 and 18) based on the above noted language, this language does not in fact appear in claim 2. Thus, the Examiner's rejection appears to be *prima facie* erroneous with respect to claims 2, 12, 14, 16, and 18. Applicant respectfully requests withdrawal of the Section 112, second paragraph rejection of claims 2, 12, 14, 16 and 18 and a timely indication of allowability of claims 2, 12, 14, 16, and 18.

With respect to independent claims 1 and 3 (as well as dependent claims 4-11, 13, 15, 17 and 19), it appears that the Examiner has misinterpreted the recitations "rotational axis" (see e.g., claims 1 and 3) and "axial direction" (see e.g., claim 6) as recited, for example, in claims 1, 3 and 6, as well as the dependent claims that depend therefrom. Specifically, the Examiner states that "it is unclear how the horizontal perpendicular line of direction is in the direction of the rotating impeller where the direction of the impeller follows a **circular path** [emphasis added]," Applicant submits that the recitation "axis" means a straight line around which something turns; and, that

"axial direction" means the direction of a straight line around which something turns.

Thus, Applicant submits that the claimed subject matter is clear and definite.

Nonetheless, in an effort to expedite prosecution, Applicant has amended claims 1 and 3 to recite "wherein the center line is parallel to both the predetermined direction of the rechargeable batteries and the rotational axis of the impeller." Thus, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-19 under Section 112.

The Examiner rejected claims 1-19 under 35 U.S.C. 102(b) as anticipated by, or in the alternative, under 35 U.S.C. 103(a) as obvious over admitted prior art Figures 6A, 6B, and 7. Applicant respectfully traverses this rejection and requests withdrawal of the same. Applicant further requests that the Examiner allow the above captioned patent application to mature to a U.S. patent and submits that such action is appropriate.

With respect to independent claims 1 and 3 (and dependent claims 4-11, 13, 15, 17, and 19), for example, the Examiner's rejection under §102(b) appears to be improperly premised on the Examiner's misinterpretation of the terminology "rotational axis" and "in a direction of movement of the impeller at the distribution space side." As noted above, claims 1 and 3 have been amended to clarify that "the center line is parallel to both the predetermined direction of the rechargeable batteries and the rotational axis of the impeller." Applicant submits that the admitted prior art Figure 7 does not teach or suggest the recitation, "an axial position of the fan is eccentric with respect to a center line of the distribution space in a rotating direction of the impeller relative to the distribution space, wherein the center line is parallel to both the

predetermined direction of the rechargeable batteries and the rotational axis of the impeller," as recited in claims 1 and 3.

Furthermore, the Examiner has failed to establish a *prima facie* case of obviousness under Section 103(a) as required under the statute. The Examiner's rejection under § 103(a) of claims 1 and 3 appears to be based on impermissible hindsight and unreasonable speculation regarding inherency. In other words, the Examiner has improperly used Applicant's own disclosure as a guide or map in impermissibly picking and choosing elements in the prior art to come up with the claimed subject matter. More so, the Examiner has impermissibly speculated, without any supporting evidence, on the manufacturing tolerances employed in the Figure 7 prior art system. Applicant notes that Applicant has taken a positive, calculated and active step to position the fan so that its axis is eccentric, for example, as recited in claims 1 and 3.

Claims 4-11, 13, 15, 17, and 19 depend from independent claims 1 and 3 and are patentably distinguishable over the Prior Art Figures 6A, 6B and 7 for at least the reasons provided above with respect to claims 1 and 3, as well as for additional reasons related to their own recitations. Thus, Applicant respectfully requests that the Examiner withdraw the Section 102/103 rejection of claims 1, 3-11, 13, 15, 17, and 19, and indicate allowability of the same.

With respect to independent claims 2 and 3 (and dependent claims 10-19), the Examiner admits that these claims are not anticipated by the admitted prior art because there is no teaching for the length of the stabilizer fan being from 1.5 to 5 times the size

of the recited gap. Thus, Applicant requests that the Examiner withdraw the overtly improper rejection of claims 2, 3, and 10-19 under Section 102.

Further, with respect to the rejection of independent claims 2 and 3 (and dependent claims 10-19) under Section 103, the Examiner has failed to establish a *prima facie* case of obviousness as required under the statute. Specifically, the Examiner has failed to provide extrinsic, objective evidence for the recited length of the stabilizer fan, as is recited, for example, in claims 2 and 3. Instead the Examiner has attempted to fill the deficiencies found in the prior art by presenting conclusions, which the Examiner must prove by objective evidence, as the evidence itself. For example, the Examiner has not provided an objective teaching or suggestion for the recitation, "a length of a stabilizer of the fan is from 1.5 to 5 times the size of a gap between an extremity of the stabilizer and the outer circumference of the impeller...", as recited in claims 1 and 3.

More so, the Examiner's rejection appears to be premised on impermissible hindsight since no objective evidence has been provided by the Examiner to demonstrate why the ordinary skilled artisan would have been motivated to make the modifications posited by the Examiner in the Rejection, for example, at page 5, paragraph 6, of the Office Action. Applicant notes that the Examiner's citation of *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990) is misplaced since that case dealt with overlapping ranges, which is not an issue in the outstanding Official Action.

Claims 10-19 depend from independent claims 2 and 3 and are patentably distinguishable over the applied prior art for at least the reasons provided above with

P25054.A07

respect to claims 2 and 3, as well as for additional reasons related to their own recitations. Thus, Applicant respectfully requests that the Examiner withdraw the Section 102/103 rejection of claims 2-3 and 10-19, and indicate allowability of the same.

All pending claims being allowable under all applicable Rules and Laws, and all other matters being fully compliant with all applicable Rules and Laws, Applicant respectfully requests that the above captioned application be allowed to mature to a U.S. patent, and Applicant further submits that such action is now appropriate.

SUMMARY AND CONCLUSION

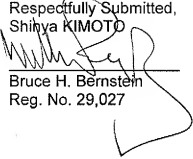
In view of the foregoing, it is submitted that the Examiner's rejections under 35 USC § 102, 103, and 112, second paragraph in the Office Action dated May 16, 2006, have been overcome and should be withdrawn. The present response is in proper form, and none of the references teach or suggest Applicant's claimed invention. Accordingly, Applicant requests timely allowance of the present application.

Applicant notes that this response is being made to advance prosecution of the application to allowance, and no acquiescence as to the propriety of the Examiner's rejections is made by the present response. All amendments to the claims which have been made in this response, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. §1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to charge any required extension of time fee under 37 C.F.R. §1.17 to Deposit Account No. 19-0089.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

August 15, 2006
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Respectfully Submitted,
Shinya KIMOTO

Bruce H. Bernstein
Reg. No. 29,027

William Pieprz
Reg. No. 33630